

Braille Monitor



MAY, 1980

VOICE OF THE NATIONAL FEDERATION OF THE BLIND

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THE BRAILLE MONITOR

PUBLICATION OF THE
NATIONAL FEDERATION OF THE BLIND

MAY 1980

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THE BRAILLE MONITOR

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SUBSCRIPTION REQUESTS, AND ORDERS FOR NFB LITERATURE
ARTICLES FOR THE MONITOR AND LETTERS TO THE EDITOR
SHOULD BE SENT TO THE NATIONAL OFFICE

* * *

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* * *

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* * *

THE NATIONAL FEDERATION OF THE BLIND IS NOT AN ORGANIZATION
SPEAKING FOR THE BLIND—IT IS THE BLIND SPEAKING FOR THEMSELVES

ISSN 0006-8829

504—WHAT DOES IT MEAN?

by HAL BLEAKLEY

Section 504 of the Rehabilitation Act of 1973 has the potential for producing important results in our struggle for first-class citizenship. It has the potential. But, unless we use it, it will be just one more legislative seed that never bears fruit we can eat. If we are to use it, we must first understand it—504, what does it mean?

Section 504 is a part of Title V of the Rehabilitation Act of 1973. It is basic civil rights legislation. The Civil Rights Act of 1964 prohibited discrimination on the basis of race and national origin. Then came prohibition of discrimination on the basis of sex. Now, with 504, recipients of Federal financial assistance are prohibited from discrimination on the basis of handicap.

Who are “recipients of Federal financial assistance”? Without getting into technicalities that would be meaningful only to a bureaucrat or the Supreme Court, a recipient of Federal financial assistance is any agency, institution or other organization, public or private, that receives Federal money, directly or indirectly, except for money that is payment for goods or services sold to the Federal government under a procurement contract. Then, who must comply with 504?—the public schools and most state and municipal government agencies, colleges, universities, agencies for the blind, other social agencies, hospitals, clinics, nursing homes, homes for the aged, libraries, museums, public housing developments and on, and on, and on.

There is some confusion between Section 504 of the Rehabilitation Act and Section 503. Section 503 applies to private companies or other organizations that sell

goods or services to the Federal government under a procurement contract. Under 503, these organizations are prohibited from discrimination in employment on the basis of handicap. Incidentally, there are some other parts of Title V of the Rehabilitation Act that are very interesting, also. But, there's more than enough to talk about, just with 504.

It isn't just people who happen to be blind that are protected under 504. It's also people who are deaf, in a wheelchair, on crutches, mentally retarded, epileptic, etc. Also, if a person is temporarily disabled—for example, with a broken leg—they are covered. 504 even covers alcohol and drug abusers.

504 prohibits discrimination in 3 major areas—employment, education and the delivery of service. Before getting into a discussion of how 504 works in each of these areas, we should, first, talk about some very important concepts that run all the way through, and really spell out the spirit of, 504.

The first of these concepts is *qualified*. Just because a person is handicapped does not mean that he or she can walk into an organization and make any demands, regardless of their reasonableness. 504 is not a crutch that a handicapped person can use to escape his or her responsibility of functioning effectively or avoiding the risks that come with full participation in the benefits of society. 504 only covers *qualified handicapped persons*. What does this mean? With respect to employment, a *qualified handicapped person* is one who can carry out the essential functions of the job with

reasonable accommodation. With respect to education, particularly at the college level, a *qualified handicapped person* is one who meets the academic and non-academic standards of the educational institution. With respect to service delivery, a *qualified handicapped person* is one who meets the eligibility requirements of the provider of the service. A *qualified handicapped person*, then, is one who meets the standards for the area in question.

This definition of *qualified handicapped person* leads naturally to the second basic 504 concept, namely, that organizations coming under 504 must establish clearly defined standards regarding employment, admission to educational programs, and service delivery. Furthermore, these standards must not discriminate on the basis of handicap. No individual, or class of individuals, can be excluded on the basis of handicap if they are otherwise qualified.

The third concept underlying 504 is that the organization coming under 504 is required, if necessary, to do something extra. For example, with regard to employment, the *qualified handicapped person* is one who can do the job with *reasonable accommodation*. The *reasonable accommodation* is the something extra. Similarly, in the education area *auxiliary aids*, if necessary, must be provided by the educational institution. The same concept applies in the delivery of service. It is important to understand that 504, in no way, suggests or condones the lowering of employment standards, educational standards or eligibility requirements for service. Rather, it is saying that the standards must be spelled out clearly; that the organization coming under 504 must, when necessary, do something extra to accommodate for the physical limitation of the individual; that standards must not discriminate against a *qualified handicapped person* and 504 is also saying

that the handicapped person must *be qualified*—must perform effectively on the job, must meet the educational standards, must be eligible for the service requested.

The fourth basic 504 concept is that handicapped persons must be integrated to the greatest possible extent into the mainstream of whatever the program or activity is. An employer is *not* permitted to put all handicapped employees into a separate department. A college can *not* set up a separate biology department, for example, for all blind students.

There is a fifth major concept running through 504. It deals with what is called, “program accessibility”. It isn’t enough just to do the things we’ve discussed already. It’s also necessary to make the program and facility accessible to and useable by handicapped people. This doesn’t concern us very much, as blind persons. But, it is important to a lot of other people, particularly those in wheelchairs. With regard to “program accessibility”, as far as we are concerned, the biggest problem we have is to keep organizations from doing things they don’t need to do—textured floors and walls, knurled doorknobs, automatic doors, etc.

Now, let’s look at 504 with respect to employment. Notices of employment openings must be widely distributed, including notice to organizations of handicapped persons. Employment tests must measure the skill areas related to the job in question and must not discriminate against groups of handicapped persons. No medical examination can be given to handicapped persons that are not also given to all persons applying for that job. In the employment interview no questions may be asked that do not relate directly to the job involved—no questions like, “How did you lose your sight?”, or “How much can you see?” The interviewer may, however, ask specific

questions concerning how the applicant would handle essential functions of the job. For example, a blind applicant for a clerk/typist position may be asked how he or she would correct typing errors. All jobs must be described in writing and must clearly define the essential functions of the job. The job description must describe the objective of the job but must not specify the means by which the objective is achieved. For example, the job description may say, "must be able to type at 60 words per minute with an average of not more than 2 errors per page". But, it may not say, "must be able to see to type . . .", etc. Handicapped employees must receive all the benefits, and equal benefits, provided to non-handicapped employees—salary, vacation, insurance, advancement and all the rest.

"Reasonable accommodation" in employment may take several forms. The employer may be required to accommodate for the physical limitation of the employee by buying a special device (such as a braille), modifying equipment (an end of line light signal on a typewriter for a deaf employee), making a reader or interpreter available, trading off functions from one job to another to make a particular position suitable for a person with a particular handicap. If the organization feels that the "reasonable accommodation" is too costly, it has the right to claim "undue hardship". But, it has to prove it.

In the area of education, the major emphasis is at the college level. Just as the employer is required to describe jobs in writing and clearly define essential job functions, the school is required to put both academic and non-academic standards in writing. The really sensitive area is the non-academic standards area, called, "technical standards". An example of a technical standard for a medical school might be,

"must be able to function efficiently in emergency situations", or, "must be able to diagnose the patient's problem from observation of symptoms". The school may *not* say, "must be able to see" to do this or that or "must be able to hear" to do this or that, because this describes the means by which a function is handled rather than the objective of the function. As far as pre-admission interviews are concerned, the rules are about the same as for employment interviews—the same for pre-admissions tests.

The school is required to provide "auxiliary aids", if necessary, to accommodate for the physical limitations of the handicapped student. This may include brailers, tape recorders, readers, interpreters, etc. Unlike the employer, the school may not claim "undue hardship" regardless of cost. Like the employer, the school is mandated to make its programs and activities accessible and useable by handicapped students.

In the service delivery area, again, the organization is required to put eligibility requirements in writing and define them clearly. They can not exclude anyone on the basis of handicap, if they are eligible for the service. The exception to this is the agency that is set up specifically to serve persons with a particular disability. For example, an agency for the blind is not required to serve a person who is deaf unless that individual is also blind. The organization is required to provide auxiliary aids that are necessary to enable eligible persons to receive service. In the emergency room of a hospital, for example, this means having an interpreter available when needed. Again, the programs and activities of the organization must be accessible to and useable by handicapped persons who are eligible for the service.

One of the important mandates of 504 is that each organization coming under the

Act must conduct a "self-evaluation" in which it reviews its facility and programs to determine where discrimination may exist. If the organization employs fifteen or more persons, it must keep the results of this self-evaluation on file for public inspection for a period of three years. This self-evaluation is to be conducted with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Also, any modifications that must be made for the organization to comply with 504, must be made after consultation with interested persons, including handicapped persons or organizations representing handicapped persons.

Except for necessary structural changes "which have to be completed by June 2, 1980", every organization coming under the Department of Health, Education and Welfare 504 Regulations should now be in compliance. The fact is that most of them aren't. The fact also is that the best way to secure compliance is for organizations of handicapped persons to file complaints and pursue the issue persistently.

If we feel that we have been discriminated

against by an organization coming under 504, we should, within 180 days, file a complaint in writing with the nearest Regional Office of the Office For Civil Rights. We should also insist on being represented when organizations conduct their self-evaluation and on being consulted before necessary modifications are made by organizations to come into compliance. We have the right to know whether an organization has completed its self-evaluation and we should exercise our right.

One final point—the Act was amended in 1978 to include a new section—Section 505. This put an important tool in the hands of handicapped persons. Section 505 permits the prevailing party in an action concerning the rights of handicapped persons to receive reasonable attorney's fees. This will markedly accelerate the already growing interest of attorneys in handling 504 cases.

Even though the threat of ultimate discontinuance of Federal funds hangs over every organization that does not comply, the full potential of 504 will be realized only if handicapped persons want it enough to fight for it.

NAC'S "NEW POLICY" CONCERNING NFB: NOT NEW, NOT DIFFERENT, NOT PROFOUND

The National Federation of the Blind spends much of its time trying to secure the provision of quality services to the blind. It spends a great deal of effort attempting to get agencies which work with the blind to raise their standards and to do what they say they do. It is for this reason that we cannot support the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (NAC).

NAC's standards do not help better the lives of the blind. They do not lead to quality services or improved programs. In fact, their so called "standards" are not really standards at all but merely a mockery of the term.

The battle by the NFB to bring about improvement of services (and, goodness knows, they need improvement) has been so long and so detailed and NAC has be-

come so notorious for its unprofessional and unethical behavior that one only need repeat certain words and phrases to cause raised eyebrows and cynical laughter: *Wall Street Journal* articles, Massachusetts Association for the Blind, Chicago Lighthouse for the Blind, Minneapolis Society for the Blind, New York audit, Fred McDonald, Jesse Rosten, Louis Rives, Richard Bleeker. To recite this list in the same breath and the mention of quality services for the blind is to make a bad joke. Yes, we favor standards and quality services. Therefore, we certainly do not favor NAC. This is not complicated or difficult to understand. It is not new. We have said it many times before, and we have said it to NAC officials. The documentation is thorough. The record is complete.

In this context the NAC documents which we are about to print are an insult to intelligence and a travesty. They reek of custodialism, and their very language and phraseology contradict what they claim.

Under date of December 28, 1979, Richard Bleeker (NAC's Executive Director) sent out a memorandum commenting on a so-called "New Policy" concerning the national leadership of the National Federation of the Blind. Attached to the memorandum was the "Policy Statement," which was adopted by NAC last fall at Oklahoma City.

Why does NAC act as if it had adopted a new policy? It's never recognized or tried to cooperate with the leaders of the National Federation of the Blind. Likewise, we have certainly never felt that the NAC leaders have been responsible or responsive. We have never felt that they have done anything to benefit the blind or bring any improvement to the field. All of this goes back to the very beginning, a decade and a half. So NAC's "New Policy" is obviously more of the same old political maneuvering.

Observe the presumption of it all, and the condescension. We will determine for ourselves who our national leaders will be, and NAC will deal with us as an organization whether they like it or not. They cannot determine who will represent us in negotiations. The very wording and phraseology of this "Policy Statement" show them up for what they are and condemn them more thoroughly than any words of ours could possibly do. Therefore, let the NAC documents speak for themselves:

NATIONAL ACCREDITATION COUNCIL

*For Agencies Serving the Blind
and Visually Handicapped*
79 Madison Avenue
New York, N.Y. 10016
(212) 683-8581

December 28, 1979

To: Board of Directors
Accredited Agencies and Schools
Sponsors and Supporters

From: Richard W. Bleeker

Subject: NAC Adopts New Policy on National Federation of the Blind

On November 11, 1979, NAC's Board of Directors unanimously approved a new policy statement on the National Federation of the Blind (NFB). This marks a major shift in NAC's position toward the NFB. A copy of the new statement is enclosed.

The new policy singles out the present national leadership of the NFB as harmful to the welfare of blind people, and makes clear NAC's position not to recognize this leadership as a responsible influence in the provision of quality services to blind people.

At the same time, the policy reaffirms NAC's commitment to work with all persons who support quality services through

standards and accreditation—including members of NFB.

NAC believes that blind people should be integrally involved in planning, implementing and evaluating the services of NAC and other organizations serving the blind. NAC's policies assure the active participation of blind people in NAC's work, and the accreditation standards call for the meaningful involvement of blind people in agencies and schools that serve them.

The American Council of the Blind and the Blind Veterans Association are vitally involved in NAC's standard-setting and accreditation activities. But, NFB's national leadership has worked against NAC since its founding in 1967. This leadership has persistently made false charges against NAC—charges that have been reviewed again and again but never substantiated. NFB has continued, nevertheless, to oppose NAC through harassment of accredited organizations and others seeking accreditation, and through pressure on sources of recognition and funding.

In addition, NFB has refused all invitations to participate in any of NAC's programs. NFB has shown no capacity or willingness to negotiate honestly a resolution of its differences with NAC. Instead, NFB's current national leadership has demonstrated that it is committed to pursuing the goal of "dominance or destruction" of NAC.

It also seems to us that many of the activities of these NFB leaders are counter-productive to the cause of advancing the rights and opportunities for blind and visually handicapped people in this country. Many of you have already heard about the questionable claims and controversial programs, the unusual fund raising tactics and lack of adequate financial disclosure, and the entanglements and conflicts of interest with other organizations. You may also have

heard about NFB's autocratic structure and the efforts of some of NFB's members to try to reform it from within. All this commotion has disrupted the cohesiveness of the field, created a confusing picture to the public, and made it virtually impossible for NFB to join with others toward positive actions to enhance the lives of blind people.

Yet despite these excesses, NAC might have continued to seek the cooperation of NFB's national leadership but for one inescapable fact: the harmful consequences to blind people themselves. NFB's leadership falsely claims to speak for all blind, deaf-blind and multi-handicapped blind people in this country; they also assert the doctrine that blindness is merely an inconvenience.

This doctrine is contrary to the personal experiences of most blind people; it also runs counter to all responsible professional scholarship. Blindness *is* a severe disability. But we know that its handicapping effects often can be overcome to a large extent by the individual through hard work, quality professional services and public acceptance.

We cannot condone attempts to delude blind people into believing that their visual disability is simply a nuisance. In his farewell message as NAC's president, Louis H. Rives, Jr. vividly illustrated the error in this doctrine when he said:

When blind people lie to other blind people about this, it is a tragedy because it hurts blind people. If they are also lying to themselves, I'm sorry for them because they haven't accepted their own blindness. But if they know that what they say is false, then they should be subject to the opprobrium, scorn and contempt of everyone who is blind or who believes in blind people.

The new statement adopted by the Board of Directors marks a major change in NAC's policy toward NFB's national lead-

ership, while it in no way diminishes NAC's commitment to the full participation of blind people in affairs that affect their lives.

Already one accredited agency has told us that it has adopted a new policy on NFB similar to the position taken by NAC. We anticipate that other accredited members, Sponsors, and Supporters will study NAC's policy carefully and be stimulated to review their own positions toward NFB. We will be interested to learn of any action you take.

NATIONAL ACCREDITATION COUNCIL

*For Agencies Serving the Blind
and Visually Handicapped*

79 Madison Avenue
New York, N.Y. 10016
(212) 683-8581

POLICY STATEMENT

The National Accreditation Council (NAC) believes the present national leadership of the National Federation of the Blind (NFB) to be harmful to the welfare of blind and visually handicapped persons through its opposition to standards and accreditation.

Therefore:

NAC does not recognize the present national NFB leadership as a responsible influence in the provision of quality services;

NAC reaffirms its commitment to work with all organizations and individuals—including members of NFB—who support quality services through standards and accreditation.

Approved unanimously at the annual meeting of the NAC Board of Directors, assembled November 11, 1979 in Oklahoma City, Oklahoma.

MY EXPERIENCE AS A TRAINEE AT THE MINNEAPOLIS SOCIETY FOR THE BLIND

by MARY HARTLE

I have had direct experience with the Minneapolis Society for the Blind as a student in the rehabilitation program. The purpose of rehabilitation is supposed to be to prepare the blind person to resume the life, work and activities he/she was involved in prior to blindness. The program at the Society does not accomplish this goal. Instead one is taught to assume the roles of helplessness and dependency.

Instead of helping me to see that blindness could be reduced to the level of a physical nuisance provided the proper training was given, the Society tried to instill in me the antiquated notion that blindness is a

severe handicap which greatly limits a person's ability to live independently. Rather than learning that blindness is just as respectable as sight, I learned, through constant reinforcement by the Society, that blindness is something of which to be ashamed. Rather than building my self-confidence, the program reinforced fears about blindness that I had acquired as a small child. I had more confidence and higher expectations for myself, in particular, and for blind people, in general, when I entered the program than when I terminated. I had many fears and doubts about my ability to live independently without any

sight—the prospects of which are fairly certain, given my eye condition.

I had enrolled in the program at the Society, thinking I could just get some training in braille, cane travel and other alternative techniques. I thought I could go there and ignore the Society's philosophy toward blindness. However, I learned that that was not possible. I found that a rehabilitation program's philosophy is even more interwoven with the business of teaching techniques than I had realized. My efforts to block out the Society's philosophy were made in vain. It pervaded every pore of the building. Through a very insidious, subtle process, the Society's attitudes invaded and influenced me to the point where I came to believe, temporarily, in them. It was like being brainwashed to think a certain way and to reject the beliefs and values previously held.

After I had been in the program for about a month, two realizations started to dawn on me. First, it was impossible to discuss the instruction of alternative techniques without talking about attitudes toward blindness. Second, my confidence was starting to erode away and, thus, I needed a program that not only taught me new techniques but which would re-build my confidence. But the Society's program wasn't able to fulfill this need. In part, they honestly did not know how and in part, the staff wanted me to learn that my notions about blindness were in error. The staff told me, for example, that it was hard to travel as a blind person, especially in the winter, that it was difficult to thread a sewing machine needle, etc.

The staff exhibited paternalism and custodialism with their over-protective pity, their unsolicited parent-like advice-giving, and their authoritarian discipline. The use of canes in the building was discouraged, and, instead, the use of sighted guides and

special "indoor protective techniques" were promoted. Special physical modifications were made in the building such as tactile strips on the floor in the workshop and braille markings on doors and on typewriters. These created the erroneous notion that such alterations are necessary for a blind person to function. Both blind staff and students who had some sight were encouraged to use whatever vision they had, no matter how dysfunctional or inefficient it was. The emphasis should have been on demonstrating the practical application of alternative techniques and on proving that a person with no sight can function just as well as a person with some or all of his/her sight.

The Society knew that I was an active member of and leader in the National Federation of the Blind. I was treated with much hostility because of my affiliation. They ridiculed, harassed and intimidated me when I expressed my views toward blindness and the program. The students treated me likewise since they had been indoctrinated negatively against the Federation. When I publicly expressed my opinions about the program, I was insulted and attacked still further.

The erosion of my confidence and the pressure brought against me because of my affiliation with the Federation culminated in a period of hospitalization for depression. This occurred three and a half months into the program. During most of my stay at the Society I was in conflict as to whether to continue or leave the program. On the one hand, I knew it was destroying my confidence, but on the other I kept hoping to regain it by staying and also, the program had made me so dependent on the staff that it was too frightening to think of leaving. Because of this I returned to the Society after I left the hospital. With the help of members of the Federation I was able to regain

enough confidence to enable me to break away from the Society three months later. Over the next several months my confidence increased and I was subsequently able to develop my alternative techniques as a result. I then was recruited for a position in competitive industry doing administrative work.

The experience was additionally agonizing because of my personal knowledge of hundreds of blind persons who are functioning at much higher levels than the Society has

ever thought possible for any blind person to reach. Also, I have worked in an administrative position in an agency with programs similar to the Society's but which operates under the Federation view toward blindness and I have seen how good rehabilitation programs can be when administered under a positive philosophy toward blindness. Good programs produce blind persons who do compete on terms of equality with their sighted peers.

BLINDNESS: TO OPEN A DOOR

by LAURIE CKERY

(Note: The following article is taken from the November, 1979 issue of News From Blind Nebraskans, which is the publication of the National Federation of the Blind of Nebraska. Lauri Eckery is a member of the Tri-County Chapter of the NFB of Nebraska and is one of the leaders of the state affiliate. With respect to the happenings related in this article, Lauri says: "Throughout this struggle I have been deeply conscious that this whole ridiculous chain of experiences is not exclusively directed against me; given similar circumstances, it could have happened (and in some cases has happened) to any one of you.")

On August 30, 1977, I filled out an application for employment at Bishop Clarkson Memorial Hospital; on that date, I was also interviewed for a position as a Central Supply Aide/Technician. Briefly, for those of you who may not be familiar with the specifics of this job, it entails the packaging, sterilizing, storing and delivering of surgical instruments and other medical supplies.

Since I was qualified, and therefore considered myself perfectly capable of performing the job in a competent manner, I was confident that my application would go unhindered to the Central Supply Department.

By August 31, there had been several conversations between Personnel and my-

self. During these calls, I was asked many of the typical "... We were wondering. . . ." questions, regarding how I planned to travel around a nine story building, how I would give and receive messages, how I could read the dials on sterilizing equipment, etcetera. I answered all of these questions as well as I could, and asked to talk to the Supervisor of Central Supply, in order to explain how I thought a blind person could do the job.

On September 1, because I was quite obviously being denied the opportunity of speaking to the Supervisor (and thus being denied a chance at the job itself), my counselor from the Nebraska Services for the Visually Impaired and I went to the

Central Supply Department. Our reception at this time was a very cold one, and I was told, "We don't have any openings right now, and even if we did, there is nothing down here you could do."

I called several days later to see if the position for which I had applied had been filled. I was informed that it had, but that there was another opening, and my application was being sent down for further consideration.

During this time, I was also having similar difficulties with two other hospitals in the Omaha area, and it was becoming more and more obvious to me that I was being discriminated against because of my blindness.

In mid-October, I filed a complaint with the Nebraska Equal Opportunities Commission. Later that month, I also filed with the Office for Civil Rights, Department, Health, Education and Welfare, whose regional office is in Kansas City.

The Federal investigation of my case began on January 14, 1978. The investigation was, I believe, a thorough one. It included a long series of interviews with Clarkson Hospital, several people from SVI, and another person who, because of her blindness, had been denied a position as a Medical Transcriptionist at Clarkson.

In April of 1978, it was determined by the Office for Civil Rights that I had, indeed, been discriminated against by Bishop Clarkson Hospital. It was found that the only characteristics which separated me from the others who had applied for the position in Central Supply were that I was better qualified and that I was blind. It was also discovered that someone had, in fact, been hired on the day after I had first applied; but this person had been terminated after one day's work, and my application had *not* been reconsidered.

In September, 1978, I was told that my

complaint was in Washington, D.C., being attended to. Clarkson was subsequently told to offer me a position in Central Supply, or an equivalent position, which I would then accept—plus back pay.

In the late fall of 1978, the Office for Civil Rights informed me that I had been offered a position (ironically enough!) as a Medical Transcriptionist, with a higher salary than I would have received as a Central Supply Aide. There was, however, no mention of back pay. Tempting as it was, I refused the position. Clarkson was then given a second chance to comply with the 504 regulations; in December, 1978, I was again offered the same position. Because of the principles involved, I again, of course, refused.

Since that time, the Federal people have been in the process of "Administrative Remedy," which essentially means that if Clarkson does not comply, it will lose its Federal funds.

I would like you to note the difference between this investigation and the one conducted by the Nebraska Equal Opportunities Commission.

In November, 1977, I was notified that my complaint had been received.

In May, 1978, John Cheadle (SVI) received a letter, telling him, in effect: "We will soon begin the investigation of your complaint." The EOC was called, and we were told that since my complaint was already being investigated on the Federal level, the EOC would not be doing anything until the office for Civil Rights had made its determination.

That was all until March, 1979, when I received a letter telling me that my complaint had been investigated; the EOC had determined that, because my blindness would negatively affect my performance while on the job, Clarkson had not discriminated against me.

I wrote a letter to the EOC, expressing my dissatisfaction; not only had I never been notified that the investigation was happening; I also wished to contest the negative and unreasonable decision of the Commission. I asked to appear before the EOC, in order to register my complaint formally with them.

On April 13, 1979 (a Friday by the way), I was present at the monthly meeting of the EOC. Jill Nagy, legal counsel for the Department of Institutions, spoke on my behalf. In a very positive, reasonable speech, she presented our two major complaints—the slowness of the entire process, and (more importantly) the obvious lack of a thorough investigation. Neither the Services for the Visually Impaired nor I had ever been contacted. The discussion from then on focused on “reasonable accommodations,” an inaccurate and somewhat irrelevant means of summing up the main issues in this case. It was decided that any decision would be deferred at that time, and the EOC would “take it under advisement” in executive session; I would be notified of the outcome in a few days.

On April 25, 1979, I received an undated letter from Lawrence Meyers, Executive Director of the EOC; he stated that after the meeting of April 13, the Commission had decided to explore some areas of my complaint, which were in need of attention.

EDITOR'S NOTE: In order to provide fill in information between the two sections of Laurie's narrative, it should be noted that on May 19, 1979, Lawrence Meyers spoke at the State convention of the NFBN. While he talked about some of the generalities of this case, he refused to discuss the specifics, pleading that confidentiality forbade him to do so. His remarks again focused on “reasonable accommodations” and “cost”

despite the fact that Dr. Nyman, Director of the Nebraska Services for the Visually Impaired, stated repeatedly that SVI would absorb any costs necessary to insure the effective performance of the job.

Subsequent to the “panel discussion,” all attempts to reach Lawrence Meyers by phone were of no avail—he was always on vacation.

On August 22, 1979, an interview was held between Bill Vaughan (EOC), John Cheadle (SVI) and myself. Its purpose was to find out if there was indeed any reason to believe that the Commission's investigation had been neither thorough nor proper. At the end of the interview, I really believed that Mr. Meyers and the rest of the Commissioners wanted to have this case completed; Mr. Vaughan also implied that the final decision would be made at their September meeting, which would probably be held on the 14th.

On September 11, via a chain reaction, word-of-mouth process, I found out that the EOC was in reality meeting on the next day, in the vicinity of Scottsbluff, Nebraska; my case was to be one of those discussed at that time. Mr. Vaughan was contacted, and a request for postponement was made; if the present agenda held, I would not be able to give any input toward the determination.

Mr. Vaughan said that he would make our wishes known.

On September 14, Lynn Hawkins (“Lincoln Star”) interviewed John and me late in the afternoon. Another reporter had been sent to the meeting in Scottsbluff, and Ms. Hawkins hoped to be able to inform us of this outcome by the time she interviewed us. She quickly became aware of the complexities involved in the case, and was quite receptive concerning my position. She voiced a hope that the forthcoming article would

spur some responsible officials to positive action.

EDITOR'S NOTE: The article appeared on September 22 and again Laurie sums up her feelings when she says: "Even if one person begins to understand, if a single blind person has a chance to get through a door before it's slammed, then my effort—for all its pain—has been worth it."

Meanwhile, I had learned that the decision of the EOC had not been in my favor. Not only did they think that they had conducted a thorough, proper investigation; they also declared on public record (using John Cheadle's name) that we were taking an adversary, confrontation type position on the matter. Again ironically, *they* insisted on being present at any meeting in which my case was being discussed. The manner in which Mr. Vaughan had evidently made his "report" served to discredit us, to defame our character, and to completely misinterpret our position.

At the suggestion of Lynn Hawkins, we contacted the Nebraska Civil Liberties Union, to seek their help in what appeared to be an inevitable forthcoming court case. As far as we knew, we had until October 15 to receive a decision from the NCLU to obtain a lawyer, and to file a petition.

On October 11, the NCLU said that they would take my case, although they would not be able to find a lawyer and file a petition by the 15th of the month. After much scurrying around, we found attorney Ed

Fogarty, who was willing to examine materials we had gathered.

On Monday, October 15, Mr. Fogarty drew up a general petition, designed to protect me in several aspects of the law; the petition was signed that afternoon.

In order to make this proceeding legal, summonses had to be served by the Douglas County Sheriff on four EOC Commissioners, and by the Lancaster County Sheriff on Governor Charles Thone, the Attorney General, and whoever would take it at the EOC offices. All of this had to be (and was) accomplished by the set time limit.

I have subsequently received a letter from the EOC, signed by one in the Attorney General's office, informing me of my appearance in Douglas County Court on November 20. This hearing (requested by the EOC) is for the purpose of objecting solely to jurisdiction of the court. This could involve several issues; it could also cause the entire case to be thrown out of court.

But there are also many *positive* possibilities, and for their sake I, representing the National Federation of the Blind and other blind people similarly situated, intend to hang in there! I can definitely say that during the past two years, I have begun to understand the meaning behind the quote: "We know who we are, and we will never go back!"

EDITOR'S NOTE: As an update, the NCLU later declined to take the case, because they said they would rather put their money into a case that has a better chance of winning.

MORE EXPLOITATION OF HELEN KELLER

1980 is the 100th anniversary of Helen Keller's birth. As might have been expected, the American Foundation and the rest of

the NAC combine are milking the occasion for all it is worth. In late June they are holding what purports to be a "Helen Keller

Congress" in Boston. Everybody who has the slightest connection with the field of work with the blind is supposed to come. After all, do you want to be disrespectful to Helen Keller?

Of course not. But you might want to argue whether the American Foundation for the Blind is a proper custodian of her memory or a suitable representative for what she exemplified. By even raising the issue, we are doubtless leaving ourselves open to the usual charges of negative behavior and radical action. We content ourselves by remembering two Chinese proverbs: 1. "An ignorant man is never defeated in an argument. 2. Rotten wood cannot be carved."

Be this as it may, American Foundation's Helen Keller Congress has sparked a number of side shows. On January 17, 1980, a Mr. William Goodman (who heads an adult education program for the blind at LaGuardia Community College in New York) attended a meeting at the New York City chapter of the National Federation of the Blind.

Contrary to what the American Foundation for the Blind would have wanted but in true Helen Keller style, the Federationists spoke their minds. It apparently *blew* Mr. Goodman's mind. He apparently stormed out of the meeting in fury. Alas! It is often thus with people in our field who trumpet their "professional" expertise. Rami Rabby, Second Vice President of the National Federation of the Blind and President of the New York City Chapter, wrote Mr. Goodman a letter:

January 30, 1980

Dear Mr. Goodman:

The purpose of my writing to you is two-fold.

First, I want to thank you on behalf of the New York City Chapter of the National

Federation of the Blind for joining us at our January 17th chapter meeting and providing us with information about the LaGuardia Community College program for blind adults which you are currently directing. We very much appreciated your taking care to have the course catalogs brailled and recorded. We wish more colleges and universities would do likewise.

My second purpose is to reiterate in writing what I said to you in my closing remarks on January 17th. Incidentally, we were sorry to see you make such a hurried exit. As I told you in December, we always invite our guest speakers to stay with us *throughout* our meetings.

It is our belief that celebrations of the 100th anniversary of Helen Keller's birth are laudable. Helen Keller was a marvelous and brilliant person. However, merely gathering for a self-congratulatory celebration and a joyous cutting of a birthday cake simply makes no sense to us. For one thing, as Gerald Kass, Executive Vice President of the Jewish Braille Institute of America said, "What's the point? She's not going to be there." But, much more importantly, as Mr. Kass, and we also, said, it would be the height of incongruity for us, or you, or anyone, to come together for a day of backslapping contentedness and carefree abandon when the day-to-day lives of so many blind people, and deaf people, and deaf-blind people are racked with the discontent, frustration, anxiety and despair of unemployment, public prejudice and discrimination, and the unresponsiveness of so many public and private rehabilitation agencies.

Helen Keller worked hard to make the world a better place for blind people when she left it than it had been when she came into it. Nothing would make her happier than to know that we were gathering on the 100th anniversary of her birth—*not* for a

specious celebration of a date on the calendar—but rather for an honest appraisal of where the blind, the deaf, and the deaf-blind are in today's society and in today's rehabilitation system, and a rededication and recommitment of work truly for the benefit of her fellow disabled.

As you know, there are deep divisions between sincerely held philosophies within the field of work for the blind—between the National Federation of the Blind on the one hand, and much of the rehabilitation and education services system on the other. We believe those divisions are bridgeable if we would only listen to each other's views and philosophies. We can do that on April 24th. Helen Keller would be delighted.

Now that I have explained to you what general shape and direction we would like to see the Helen Keller anniversary celebration assume, let me turn to the issue of your invitation to us to participate in the planning meeting which you scheduled for 10 A.M. on Tuesday, January 22nd, at the American Foundation for the Blind.

I am sure you would agree that the essential focus of all our work in the blindness field, both yours and ours, should be placed on the blind, themselves. After all, what other meaning could the phrase, "work for the blind" have? If that is the case, I should hope that you would also agree that the blind, themselves, must play an overwhelming role in the planning, development and implementation of any program, or project, that is designed to deal with their problems and seek appropriate solutions to them. If that is a sound policy, then it should be reflected not only in our words and statements of general philosophy, but it should also pervade every step of the program planning, development and implementation process.

In our society, which is so sensitive to the rights and needs of minorities and other

disadvantaged classes, this policy is tightly woven into the fabric of our social philosophy and programming. In the past, this has been the case with blacks and women; today this is the case with the disabled. Thus, no college or university which has an interest in complying with the provisions of Section 504 of the 1973 Rehabilitation Act would ever dream of holding discussions regarding the needs of wheelchair users in buildings that are inaccessible to wheelchairs. Similarly (although there is no legal point involved here), it should be unthinkable that you would hold any meeting or program dealing with the needs of blind, deaf, or deaf-blind consumers at times, and under circumstances, which effectively shut those very consumers out of the process.

Yet, you invited the National Federation of the Blind of New York City to participate in the January 22nd planning meeting without telling me that the *initial* planning meeting had already taken place on January 4th, and that plans of substance had already been decided upon at that meeting. You may deny that these were plans of substance, but just look at the minutes of the January 4th meeting and tell us if you still believe those were not plans of substance.

Moreover, you invited us to participate in the January 22nd planning meeting which was scheduled to be held at 10 A.M. at the American Foundation for the Blind. *You* will surely not have to take a day's vacation in order to attend that meeting; the American Foundation for the Blind representatives will surely not have to take a day's vacation to attend that meeting; the Lighthouse representatives will surely not have to take a day's vacation to attend that meeting. But we, the consumers, who constitute the focal point of work with the blind, *will* have to take a day's vacation in order to attend that meeting. So, please tell us for whose convenience has this planning

meeting been scheduled? Indeed, since April 24th is a Thursday, for whose convenience is the celebration itself? Tell us: Are we, or are we not, effectively shut out of the process?

During our January 17th discussion, we asked you if you would be willing to change the time of the January 22nd planning meeting to a time that would be convenient for consumers of services to the blind. Initially, you said that was not possible. Then, a few minutes later, you said that it would, in fact, be possible to change the time of the meeting but that you simply were not willing, and were not going to do so. I ask you: What is more important—having the consumers of services to the blind participate fully and effectively in the planning and implementation of the Helen Keller anniversary celebration or keeping your 10 A.M. meeting time on January 22nd? To us, the former is an overriding issue; it appears that to you, the latter has priority. That is why we declined your invitation. From your demeanor as you rushed out of our meeting, it was clear that you were upset with our decision.

No doubt there will be those among your

colleagues who will say to you: “What do you expect from a bunch of militant rabble-rousers and hell raisers?” We hope that such expressions of implied support will not lull you into a sense of professional security and kinship with “them” against “us”. You, yourself, will attest to the fact that we did not shout or yell or scream at you; we did not rouse rabble or raise hell. We not only told you honestly and straightforwardly how we felt, but we acted in the same spirit. Rather than be upset with us, you would do well to think long and hard about what we said to you at the meeting and what we have said to you in this letter. After you have done that, we hope you will not only continue to express the philosophy of consumer integration and involvement, but also begin to act in the manner that reflects that philosophy. As I said earlier, Helen Keller would be delighted.

With all good wishes, I am,

Sincerely yours,

Rami Rabby
President, New York City
Chapter
National Federation of the
Blind

NEWLY BLINDED WOMAN FINDS THE FEDERATION

Reprinted from The Buckeye Bulletin September, 1979

When Joyce Meyers of Trotwood (near Dayton, Ohio) was told that she was going blind from Retinitis Pigmentosa a little more than a year ago, she didn't know what the disease was. After her initial shock diminished, Joyce got busy investigating and one of the first resources she found was the Information and Referral Service Telephone manned by members of the Dayton Federation. Encouragement and support from her family and Federation members

helped Joyce adjust to her new role as a blind person. In less than six months after learning she had RP she was taking cane travel, had become involved in the RP Foundation and is now her area contact for persons with RP, has a telephone referral service in her home and is active in the Dayton Federation Chapter.

Joyce, her husband and children attended their first national convention in Florida last year. Joyce said, “Just hearing Dr.

Jernigan speaking at the banquet and being able to meet him personally made it an experience I will never forget." They are planning to go to Minneapolis this year.

Had it not been for the Federation it might have taken Joyce longer to cope with her new found blindness. By attending a few Federation meetings Joyce realized

that being blind wasn't necessarily the tragedy that she had always thought it was. So again, the Federation philosophy comes through. It is very important that we continue to spread the word so that others like Joyce can know who we are and what we stand for.

IN MEMORY OF ROBERT E. WHITEHEAD

by T V CRANMER

Early on the morning of September 11, Robert E. Whitehead died leaving behind innumerable friends and a record of a lifetime of service to his fellowman.

Throughout the National Federation of the Blind, Robert E. Whitehead was affectionately known as "Colonel Bob". Bob was a Kentucky Colonel and, more than most men, gave dignity to that honorable order.

As one of NFB's most trusted members, Colonel Bob was selected to chair the influential nominating committee at the national conventions for many consecutive years. He, also, served as a director on the National Board, leaving that position only because of poor health.

His contributions to the blind of Kentucky are best summarized by enumerating the positions of leadership he held through the years. He was president of the National Federation of the Blind of Kentucky for 13 years. While holding this office, he lead the move to bring to the state our own regional library for the blind. He accepted an appointment by our Governor to serve on the Ad Hoc Committee to study and recommend the establishment of the Rehabilitation Center for the Blind. He served more than one term on the standing Governor's

Committee on Services for the Blind and the Advisory Committee to the Bureau for the Blind. At the time of his death, Bob was an active member of the Committee to the State Department of Libraries.

Bob was interested in helping all handicapped people, not just the blind. He made frequent contributions to the work of the President's Committee on Employment of the Physically Handicapped.

It would be impossible to record the countless personal contributions made by Bob Whitehead in writing, sponsoring, and, in all other ways, supporting legislation to improve life for the blind in the state and nation. His influence was far-reaching in the realm of government and politics. He was personally acquainted with our senators and representatives, and frequently telephoned or corresponded with these leaders on behalf of the blind. State and National leaders alike respected and sought the opinions of Bob Whitehead.

Bob was forceful in his advocacy for the blind; effective and forceful, but never ruthless. He was a gentle man and a gentleman. He won the respect and admiration of everyone who knew him. We in the Federation will long remember and forever cherish the good works of Robert E. Whitehead.

FAA BACKS DOWN: THE VOICE OF THE BLIND IS HEARD AGAIN

by JAMES GASHEL

As with black people in the late 1950's and early 1960's who fought for the right to travel on equal terms on the public buses, so it was with the blind in the 1970's who fought for the right to travel without demeaning restrictions on the commercial airlines. Each of these battles had a strong element of symbolism; each was a classic civil rights struggle; and in each case the barriers of prejudice, insensitivity and ignorance were well built and firmly anchored with roots that go deep in social custom and tradition. Nonetheless, even barriers as formidable as these could not withstand the light of reason forever.

On January 18, 1980, the Federal Aviation Administration (FAA) announced its latest moves in response to the major public protest which was aroused when United Airlines (and on occasion some others) began to insist that blind persons surrender their canes upon boarding the airplanes. The FAA was involved since it took responsibility for requiring canes to be stowed as "carry on baggage" in accordance with Section 121.589 (a) of the Federal Aviation Regulations. Although it had not been generally understood that canes were to be treated as "carry on baggage," the FAA took the position that they should be and claimed that this was in accordance with the regulations governing the transportation of handicapped persons.

These regulations (known technically as part 121.586 of the Federal Aviation Regulations) became effective in April of 1977, but in September of that year (as the reports of discriminatory treatment on board the airplanes began to mount) we filed formal papers petitioning the FAA to repeal these

rules thereby allowing us the constitutionally guaranteed freedom to travel. The petition has now been granted, and while some aspects of the battle will continue, a major victory has been won.

Part 121.586 was allegedly intended to prevent discrimination against handicapped persons in air travel, but from the first word it had the wrong focus altogether. For example, consider the title "Authority to Refuse Transportation;" you could hardly accuse them of a positive approach. The regulations also allowed air carriers to establish their own procedures for transportation of the handicapped while stating without shame that handicapped persons who could not be carried in accordance with the procedures could be denied transportation. Permission was given to the airlines to require advance notice by handicapped passengers, and a new requirement for special briefings to handicapped air travelers was instituted. And all of this in the name of prohibiting discrimination.

The rules did not specifically mention any method for carrying or stowing canes used by blind persons, nor was there any statement as to a blind person's right to have a cane on board. In the absence of any rule to the contrary, we assumed that the canes would be kept at our seats as usual. So did most of the airlines, then somebody at United decided otherwise, and the battle against the blind was on. The opening skirmishes occurred over the weekend of May 19 through May 21, 1978, as a thousand or more Federationists converged on Des Moines for the dinner honoring Dr. Jernigan as he moved from Iowa to assume his new role in Baltimore. The second round took

place a few weeks later as thousands more Federationists from all parts of the country gathered for the 1978 NFB convention.

The effectiveness of our public demonstration in front of the FAA building in Washington and the friends it attracted to us (such as the Association of Flight Attendants) have already been discussed in previous articles on this subject. No question about it, our outspoken opposition to the confiscation of our canes had a powerful impact, forcing most airline personnel to retreat from confrontation. Of course, there have been notable exceptions (the arrest reported in the January *Monitor* being one) but the most common practice has been a series of verbal warnings and threats, such as "I am afraid we will just have to report you to the FAA," a prospect which most of us have greeted with feelings only slightly short of delight. Meanwhile, the entire issue of the FAA's rules has been before the United States Court of Appeals for the District of Columbia. The technical basis for the lawsuit brought by the NFB was the FAA's denial of our petition for repeal of part 121.586. The petition had been denied in March of 1978, but then, responding to the public outcry sparked by our demonstration, our steadfast resistance on board the airplanes, and the pending litigation, the FAA softened its position some, asking the court for more time to study the specific safety problems of having canes kept at the seats. The time was granted, and the tests were done. In May, 1979, the FAA announced that it was reconsidering our petition and solicited public comment on several questions related to the cane controversy.

We responded in large numbers and the letters were universally opposed to cane confiscation. Many who are not blind and not directly involved (having only seen

news accounts of the controversy) also wrote in, and they too expressed outrage; in fact, more outrage than some of us who are perhaps a little more accustomed to being thought of as second-class. One gentleman was so put out at the thought that the Government would be mistreating the blind that he wrote: "Why don't you spend your time finding a cure for cancer and leave the blind alone." This sentiment was echoed in most of the other letters, but a few comments from agencies serving the blind (such as the New York Association for the Blind, and its Executive Director, Wesley Sprague, the hardest of the hardcore NACsters) approved of the cane-taking practice and said that folding canes would be good enough for everyone. Yes, there were also a few ACBers (but not many) who wrote in to say they were happy to give up their canes since (as they put it) the airlines do such a good job of taking care of our needs, who would need a cane?

In the final analysis, however, even the FAA did not take these few supporting comments as representative. After all, what minority does not have its Uncle Toms? In granting the petition the FAA stated:

... most commenters were against any regulation governing the carriage of canes. All of the commenters that expressed an opinion objected to the prohibition against carrying canes because they believed them to be less dangerous than carrying umbrellas, brief cases, handbags, and in some cases, children. Most of the commenters believed that there are adequate places to store canes near seats. In this regard specific note is made of the comments of the Association of Flight Attendants whose consultant suggested the use of Velcro tape to secure an otherwise unrestrained cane in the vicinity of its owner's seat.

Further on in its statement the FAA acknowledged that blind persons using canes do not significantly delay evacuation time. Tests conducted at the Civil Aerometical Institute (in Oklahoma City) revealed that the blind test subjects who used canes took an average of 1.3 seconds longer to evacuate than the average sighted person. Blind people who were tested without canes during emergency evacuations took 2.7 seconds longer. This data proved our conclusion that canes are useful in emergency situations. Commenting on the study's findings, the FAA said:

This figure (1.3 second delay with canes) represents only 1 percent of the present standard 90-second evacuation time. Thus, while there is a technical possibility of some additional small evacuation delay arising from the use of canes by some passengers, given the myriad of variables present in both actual and simulated evacuations, the 1.3 second delay is not a safety hazard of sufficient magnitude so as to require denial of the NFB's petition for rule making concerning Section 121.589 (a).

The notice granting the petition also addressed the other arguments which the FAA has used to deny blind persons access to their canes. The first of these was the "flying missile theory," which expressed the fear that passengers may be killed or severely injured by an unsecured cane flying dangerously through the cabin during a rapid deceleration. Admitting that the "flying missile" fears were unfounded the FAA said:

The CAMI (Civil Aerometical Institute) study also considered the potential of unsecured canes to present possible hazards in a sudden deceleration such as that which would occur in the event of an air-

craft crash. CAMI determined that an unsecured cane would pose a substantial hazard in the event of sudden deceleration. However, an appropriately stowed cane, even if readily accessible, would not constitute a safety hazard.

The second, and well-known FAA argument was the notion that canes would damage the evacuation slides. This has always been a puzzling concept since one is inclined to feel that the problem may well be the fabric of the evacuation slides rather than the canes, for after all, if the slides are so flimsy as to be punctured by the ordinary cane, what good are they anyway? Now the FAA seems to agree—the slide argument has fallen in the face of reason.

Indeed, in summarizing its new position, the FAA has nearly come full circle and admitted what we, the blind, knew all along. Yes, there is still a twinge of reluctance, and it seems hard to say "You were right," but nonetheless the change in posture is significant. The new view about canes was summarized by the FAA as follows:

The petition is granted to allow the initiation of rule making to permit the readily accessible stowage of flexible travel canes. Undoubtedly a number of hypothetical situations can be postulated in which canes may pose safety hazards of varying degrees, but there is no satisfactory historical experience with such problems, nor do the hypothetical hazards associated with canes—particularly those capable of being constructed in experimental settings—have a sufficiently high probability of occurrence so as to constitute a safety hazard. Further, with appropriate stowage, the special utility that canes have for blind passengers can be preserved while at the same time any conceivable safety hazard posed by their near-seat

placement in readily accessible locations can be minimized.

Well, there it is, exactly what we knew all along—the canes are not a safety hazard, or at least not more so than other items which are carried on board the planes everyday. There is no question, the FAA has raised the white flag of surrender, and considering its earlier inflexibility, this is a victory of sizeable proportions. At this point the exact course of events for the future is not known, but we can anticipate dismissal of the lawsuit pending before the United States Court of Appeals—for the most part the case is now moot. Shortly we expect also to see some newly proposed rules, addressing not only the matter of canes but the other discriminatory features of part 121.586 as well. Inevitably there will be a period of time for public comments, and the wheels of administrative decision making will grind along.

In the meantime, what about us—the people who have been put upon most? Much will depend on what we, ourselves, do. Certainly there will still be requests for our canes, and on occasion there may be some of the old threats, but we now have the strength of the FAA's own findings—canes are not necessarily hazardous; they are not lethal.

The voice of the blind has been heard again. We will keep our canes and travel as first-class citizens; we are simply not going to be pushed aside and told to wait for others. In our thousands we have organized and we have spoken. At last we have prevailed. This incident gives us another reminder of why it is necessary to organize for common action, and it also testifies to the importance of working each day to build our movement at the level of each local chapter and in every state affiliate. This is the only way we can deliver the message—the blind are an organized force and we will not be discounted or ignored. In this instance alone we took on the federal establishment which regulates the aviation industry, and we also came nose to nose with the largest air carrier in the industry; yet we won.

We have often said that the Federation is today the single most effective, and most positive force for improving the lives of blind people in this country. The evidence from our ever increasing record of accomplishments is impressive proof—our movement is on the move. Let those who would attack us and try to hold us back look only to themselves and to their motives. As for us, we know who we are, we know what we want, we know we will get there, and we will never go back.

THE MINNEAPOLIS SOCIETY ELECTION: FIRST-EVER PROXY WAR, AND THERE'S MORE TO COME

by JAMES GASHEL

Several months have now passed since the special court-ordered election of the officers and directors of the Minneapolis Society for the Blind, but the repercussions from the election itself and the events which preceded it are far from at an end. There is

even considerable doubt as to the outcome, although, according to the Society, less than a majority of the seats on the Board (8 out of 24) and none of the executive officer positions were turned over to candidates who are members of the NFB. Thus,

the leaders of the Society and their adherents have claimed a major victory. The NFB (the true enemy of the blind, so they say) has been vanquished. The "Independent Blind" (or so they style themselves) have now spoken. Ah, but have they?

Consider the events which led to the election and the Society's tactics during the campaign. The problems arose a decade ago when blind persons in Minnesota became concerned that the policies and programs of the Minneapolis Society were not sufficiently positive in tone or effective in approach. The program emphasized employment in the sheltered workshop, and there was widespread feeling that Society staff took a paternalistic approach toward blind persons seeking service from the agency. One way to change this, of course, would be greater participation by blind persons on the Society's Board of Directors (the primary policy making body), and this is precisely the course pursued as several blind persons in Minnesota began the process by becoming members of the Society paying their \$1 annual membership fees. At the time, the Society claimed to have an open membership policy—anyone could join—and, given enough votes, any member could be elected to the Board of Directors.

So far, so good—the democratic process—pay your dollar, get your vote, and maybe get a seat on the Board, but then the struggle began. Often we are told by the agencies that they welcome broader participation by the blind. NAC (the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped) has proclaimed its earnest desire for "consumer participation," failing to add that the blind were not even welcome as observers to its Board meetings until pressured to let us in. Now NAC without shame tells the world that it stands in the vanguard of con-

sumerism; but it does not go on to say that it has transferred all of the real decision-making power to its executive committee, which meets in secret session, and that its so-called "open Board meetings" are mere window dressing, doing nothing substantive at all and serving as a mere front for the hidden power—as closed, as secret, and as cynically unresponsive as ever. It is not surprising (the Minneapolis Society being one of the first NAC agencies) that the blind of Minnesota were not welcomed to join as members. In fact, every conceivable maneuver was used to block their participation. First, the membership dues were raised from \$1 to \$5. Next, the Board (fearing a take-over by the blind) closed the membership and restricted access to the Board by changing the By-laws so that the Directors would elect themselves rather than standing for an open election. In fact, the entire membership of the Society (except for those on the Board) was actually expelled. At this point, the blind of Minnesota went to court.

The struggle through the Minnesota judicial system was a long one; the Minneapolis Society has lots of money and was prepared (despite the fact that much of its income consists of charitable contributions donated on behalf of the blind) to use its power and wealth to prevent blind persons from gaining access to positions of responsibility as members of its Board. The original lawsuit was filed in 1972, but there was not even a hearing at the District Court level until early in 1977—nearly five years, and thousands of charitably contributed dollars were thus consumed in procedural maneuvers designed to avoid a fair and dispassionate judgment on the merits of the case. Undoubtedly there was also the hope among the Society's leadership that the blind who brought the lawsuit would eventually give it up, losing interest, or lacking

the funds to pursue the matter through the courts. To their credit, however, the blind persons who began this action were not quitters—they had the will to stand firm, and they worked tirelessly to acquire the necessary financial resources to meet the cost of litigation. They knew all along that one of the strategies for defense in a lawsuit is to maneuver your opponent through endless delaying procedures until the will is sapped and the money runs out.

Finally in 1977, the procedural maneuverings out of the way, the District Court in Hennepin County (Minneapolis) held a trial, and in June of that year handed down its decision. Finding in favor of the plaintiffs (six NFB of Minnesota members who contended among other things that they had been illegally restricted from membership and access to the Board of Directors), the court ordered that all seats on the Society's Board be up for election and that prior to the election there would be a period of open membership in order to permit participation by anyone without restriction to residency in Minnesota. Proxy voting was also to be permitted. The court took this matter seriously, expressing the view that the past membership practices of the Society had excluded from participation on the Board those persons who were most directly affected by the agency's programs and who had the most direct interest in the services provided. Expressing these views and his hopes for the future, the Judge stated:

The only right of a minority which can be protected by the Court is their right to try to become a majority. That may be accomplished by ensuring that the internal political and democratic processes of the organization, guaranteed by the laws of Minnesota and the Articles and By-laws of the Corporation, are observed.

It is also required that the processes be exercised. The plaintiffs in this case were systematically excluded from effective participation in the Society. That may be corrected. If they are to assume greater roles in the Society's policy direction and business affairs, they must do so by their personal abilities and the force of their persuasion.

It is for this purpose that the Court has Ordered a new election of Board members. Such an election will be conducted pursuant to the rules existing on December 14, 1971. There will be an open membership based upon same day registration upon the payment of \$1 in dues. Cumulative voting will be applied. Compliance with all other rules and regulations for notice and hearing is required. In addition, at Society expense, the plaintiffs will be allowed to express their views to each past and present Society member, as reflected in the records kept by the Society, by a mailing of one 8½" by 11" page, each and every time the Society notifies individuals of the special meeting or communicates in any way with a potential voter regarding the purposes of the special meeting or the issues involved.

All amendments to the Articles and By-laws since December 14, 1971, are rescinded. After the election, the membership may vote to reinstate the policies. Hopefully, the opportunity to renew open membership and regain the trust of many blind people in Minnesota will not be lightly disregarded.

The District Court's ruling was indeed a landmark decision. Never before had an agency serving the blind been caught in such an undisguised effort to block the blind themselves from full participation in its policy making processes, and the idea that an open election would be ordered to

set matters right was unheard of. After all, at the beginning of this struggle (in late 1970) there was not one blind person on the Society's Board, and now, by court order, the possibility existed for complete reform of the agency. This in itself was a tremendous victory in our never ending struggle for equal rights. The Society was afraid.

Following the District Court's order, the Society's leaders sought refuge by appealing to the Minnesota Supreme Court. There was obviously the hope that more time would pass and with it the financial demands of the lawsuit would increase substantially. Two more years went by and the blind were still excluded from the Society's Board while they waited anxiously for the highest Court in the State to uphold their right to full participation in the programs that affect their lives. Then, finally, in July of 1979 the Supreme Court's order came—"affirmed" the decision said, the conduct of the Society in December, 1972 was "illegal, and the actions taken there were void," the Supreme Court declared.

Thus, the Courts had ruled; an open election was called for and the campaign was on. Participation in this election was not limited to the residents of Minnesota since membership in the Minneapolis Society had not been restricted to Minnesotans. Accordingly, we responded as a people's movement (as the organized blind citizens of the United States), spreading far and wide the special membership and proxy forms prepared by the NFB of Minnesota, and seeking justice and our rights as first-class human beings. Anyone could join the Minneapolis Society for \$1, and thousands of us did. Of course, the dollars went to the Society along with the signed membership applications which contained the member's name and address. This procedure, handing thousands of dollars over to the Society

along with a substantial list of names and addresses, caused many to comment that it was a slick way of obtaining the NFB's membership list, something which the NACsters had longed to get their hands on for years. Nonetheless, thousands of Federationists from throughout the country took part in the election, naming leaders of the NFB of Minnesota to vote their proxies.

Just how much the leaders of the Society feared greater participation by the blind on the Board of Directors can be seen in the nature and scope of the campaign which was launched to avoid sharing their power. For some time it was difficult to know exactly how much had been spent or to what extremes the Society's directors had gone, but now (because of the efforts of the NFB members elected to the Board) the figures are being dragged out into the public. The campaign against us involved substantial mailings. In fact, it is now admitted that at least a million proxy forms were mailed by the Society alone. Full-time staff spent weeks operating a campaign command post at the Society's headquarters in Minneapolis. Full-page newspaper ads were purchased, and there was a great deal of paid advertising on the radio. All of this took place in Minnesota.

Outside the State the Society sought and received support from several other organizations and individuals who would, in the normal course of things, be expected to rally whatever forces they could against the progress of the organized blind. NAC, we are told by Mr. Johnstone, was the leader, but all of the others—the American Foundation for the Blind, the Affiliated Leadership League, National Industries for the Blind, The Chicago Lighthouse, and The American Council—also did their bit. Mailings were sent throughout the country; every agency, library and school was solicited and asked to recruit as many proxies

as possible in order to avoid any change in the Society's leadership. Reports have it that Jesse Rosten, Executive Director of the Society, flew from coast to coast politicking, arm twisting, and cajoling to get as many votes as possible in support of the status quo. By early October the campaign was at a fever pitch, and it was being said that this one election was truly a "national referendum" to decide who would speak for the blind. As might be expected, the arm twisting for votes in support of the Society was not limited to agency staff members and the general public. In fact, many of the most vulnerable (especially those who were on the lines in the sheltered workshops) were handed the Society's proxy cards and told it was just something to sign. Some, until later, did not even know what it was all about—the bosses said sign, so they signed.

Thus as a total campaign the Society launched a major effort and called upon the resources of the wealthiest agencies in this country. As for the Society itself, the campaign costs which have so far been admitted were \$149,000. At this point there is no way of knowing how much was spent by the American Foundation, The Affiliated Leadership League, NAC, National Industries, The American Council, and the several hundred public and private agencies for the blind which joined their ranks, but considering the intensity of their effort, the cost would have to be astronomical. Who can tell, perhaps it was as much as a half a million or even closer to a million dollars of charitable contributions from well-meaning people who thought they were actually contributing to help the blind. Little did they know that their good will would actually be turned against the very people for whose benefit it was intended.

But the campaign by the Society's leaders was not only waged by means of wealth and

through the combined forces of other agencies, it was also fought without regard to the public perception of blindness and with no concern whatsoever for the image of blind people which might be created. The Society's ad campaign is actually the best illustration of why the blind of Minnesota wanted seats on the Board in order to reform the agency. Under the caption "AFTER NOVEMBER 14 YOU COULD HAVE NEW RESPONSIBILITIES TO AVOID" one Society ad contained a picture of several blind people (four with canes and one with a dog) walking the streets. Beneath the picture the text was as follows:

On November 14 an election will decide whether the National Federation of the Blind will take over the Minneapolis Society for the Blind.

If they do, 75 to 90% of the blind clients and workers will be put out on the street, ending 62 years of service.

You see, the national federation would like to exclude anyone who has handicaps in addition to blindness. What's more, many blind persons will lose their jobs. Even our whole building could close. Which makes these people suddenly your responsibility instead of ours.

That's why we need your help. Right now.

Our by-laws require that you be a member to vote. And they also require that each member pay a dollar a year in dues.

So please return the coupon with one dollar and we'll contact you for your voting proxy. We will also give you information about The National Federation of the Blind's position and their proxy. But please hurry.

Before our responsibilities are forced to become yours.

Shocking as it may be that any agency would have such low regard for its clients, and indeed, the blind in general, there was more. For example, another society ad was captioned "IF IT'S HARD TO FACE MOST OF OUR BLIND PEOPLE THROWN OUT IN THE STREET, WE CAN HELP YOU HIDE," then, concluding, this ad appealed for help from the public warning "If you don't face up to the problem now, you'll see a lot more faces on the street."

That this publicity was harmful to all of us is surely obvious, but the Society's desperation seemingly knew no bounds. From the theme of the campaign already described it is clear that the Society's leaders would not stop at anything, even using the blind themselves in the vicious struggle to retain power. The ad campaign continued day after day reaching lower and lower levels of immorality and callous disregard for blind people whom the Society says it has been established to help. By any standard the lowest form of advertising came when references were made to the street in Minneapolis (known as Hennepin Avenue) where all forms of low-life and immoral conduct are known by the residents of the city to occur. Thus it was not enough, the ad intimated, that the blind people would be forced to walk the streets, it was also made clear that the street they would be walking was the road to the lowest forms of immorality, reminding one of the days in medieval Europe when blind men were forced to beg on the streets while blind women were consigned to live as prostitutes.

By late October (most of the damage having already been done) NFB leaders in Minnesota sought refuge from this daily denigration of our characters by appealing to the honorable Richard J. Kantorowicz, the Judge in the Minneapolis District

Court who had originally ordered the election. While ruling that the Society's low-level ad campaign could not be prevented by the courts based on constitutional grounds of freedom of speech, the Judge nonetheless commented on the ads as follows:

Some of the ads in question are full page ads in the Minneapolis papers and some ads are smaller. The first full page ad proclaims that there will be more tapping on Hennepin Avenue if the plaintiffs win the forthcoming election. The plaintiffs argue that a reference to "Hennepin Avenue" creates an impression that if plaintiffs prevail in the election they will force blind people into the seamiest crevices of our community. No doubt the reference to "Hennepin Avenue" can be construed as inflammatory, creating the impression that the blind will be forced to beg in the gutters of Minneapolis. Certain allegations made in these ads, such as loss of United Fund support have no factual basis in any evidence submitted by defendants. Other statements in the advertisements are tortured conclusions supposedly based on statements made by persons associated with plaintiffs. Plaintiffs ask this Court to also prohibit defendants from publishing such conclusions.

As the data now accumulates concerning the Society's behavior during the proxy campaign, it is confirmed that this election was bought or stolen and that in reality the blind people of this country paid the tab. We may never learn just how much of the private charity dollars (intended for our benefit) were diverted to the Society's defense. Was this a legal use of the funds? Only the courts can determine. How much of the tax dollars appropriated for services by public agencies actually were funneled

into the Society's war-chest is as yet another unanswered question. Not in doubt, however, is the harm done to the image of blindness and blind people by the daily barrage of low-level media advertising. There is just no escaping it, the blind were shabbily used by the Society's leaders who cared not what harm they did in waging their vicious campaign to stay in office.

But it is also clear that many in the country saw the election in terms of a much broader contest; there was even talk of a "national referendum," the agency forces immediately leaping to the conclusion that the NFB lost, a fact which has since been used to argue that we represent only a small minority, so we have no right to speak on behalf of the blind.

That this election became, in a sense, a national test of strength, there is no doubt, but an analysis of the election data (that is, that which has so far been admitted by the Society) shows a very revealing pattern. According to the proxy tallies which have so far been reported, the combined agency forces secured a total of 24,000 proxies to the NFB's 14,000. These are the overall totals, but analyzing the returns further, we find that 17,500 of the alleged 24,000 proxies gathered by the combined agency forces came from within the State of Minnesota where the major emphasis was placed on the ad campaign and where a million or more proxy forms were mailed to the public. 6,500 proxies were signed up outside the state of Minnesota where the campaign included the combined efforts of NAC, ALL, AFB, and ACB plus any other agencies or organizations they could either create or cajole. In this connection, it may not come as a surprise that Bob Acosta and whatever following he may have in California sent proxies into Minnesota in order to aid the combined agency forces; this despite Acosta's continued

claims of loyalty to the principles and philosophy of the Federation, not to mention his battle to hang onto our name.

Comparing the NFB proxy count to that of the combined agency forces, we find that of the 14,000 total, 2,500 came from within the state of Minnesota while the balance, 11,500, were signed up through the work of our local chapters and state affiliates throughout the country. To its credit, the NFB of Minnesota got more proxies than any other state affiliate. It is obvious that if the rest of us had done as well, our total proxy count would have far exceeded that of the combined agency forces.

But consider what this data tells us. The NFB as a single entity secured 11,500 proxies outside the state of Minnesota while the combined agency forces (even with their tens of millions of dollars, their power over the jobs and lives of blind shopworkers and clients, and their alliance with Bob Acosta and his ilk) only got 6,500. So what about this talk of a national referendum? From the figures it is obvious who, on a national basis, came out the winner. This analysis also reveals that the real difference in the election was money—the full-scale, well-financed campaign waged by the Society's leadership within the state of Minnesota. There is no question that throwing \$150,000 or more into a campaign is bound to bring back a few thousand votes; and combined with a sympathy plea (the image of blind people being forced to beg and walk the streets) the campaign paid off sufficiently to prevent the controlling interest in the Society from changing hands.

Even considering the total proxy count as reported by the Society, the outcome represents an important victory, for in 1970, when negotiations for seats on the Board began, the Society had no blind people on its Board at all, let alone any Federation-

ists. Now there are eight who were actually chosen by the NFB, and 17 of the 30 officers and Board members are blind. In other words, everything which the Society's leadership sought to prevent is now coming about.

But the battle is by no means over. Several things about the campaign and the election itself are now the subject of further litigation in the Minnesota Courts. For one thing, just how many proxies were illegally bought and paid for by the Society and its adherents is a matter of speculation. Historically the Society signed up as a block the members from various civic organizations, receiving as payment for the dues one check drawn on the organization's treasury. This procedure violates the rules of the election laid down by the court, yet there were those who, on behalf of the Society's leaders, issued urgent pleas for proxies even if the signed forms were not accompanied by the required \$1 dues.

Further, the Society had full control over the proxies, receiving those sent to the NFB of Minnesota more than 10 days prior to the election. It is not yet known whether this time was used to make up any deficit, but on the face of it the procedure was absurd. What a howl there would be in this country if someone were seriously to propose that each incumbent congressman or the President would receive the ballots cast for their opponents and then report the results of the election two weeks later, without permitting any outside, impartial observer to see the ballots, count the votes, or have any supporting information or data. But in the Minneapolis Society election, this is precisely what happened. Simple fairness by anyone's standard (unless, of course, the person is a dictator) would call for an impartial procedure with representation by all parties concerned.

These and other matters are now before

the District Court in Minneapolis, where the Judge is also being asked to rule on the Board's first action following the election, which was to eliminate the membership once again in order to prevent more representatives of the organized blind from gaining seats by means of future elections. Thus, anyone who signed up and paid \$1 to become a member was summarily expelled and stripped of membership at the first opportunity, not one dollar of the dues being returned. So the high-handed tricks have continued.

The precise course which the litigation will take in the future is as yet uncertain, for the entire matter has been taken under advisement by the Judge and the District Court. In the meantime, the Society's newly elected Board continues to meet. The progress will be slow, but there will undoubtedly be progress. No question, the eight NFB members as a block are a minority, and it is clear that further attempts will be made to diminish their strength by enlarging the Board. Even so, the eight are people of capacity and conviction, and over the long pull they will not be ignored, ten years of negotiation and litigation have proved this.

But the election campaign and the struggle in the Courts which brought it about have also proved much more. Let anyone who still believes that we are not large enough to be representative of the entire blind population in this country look at the actual election results. We did not have to buy votes, nor did we mail proxy forms by the millions to the general public. We did not plea for sympathy and we did not denigrate the blind. Also, we spent precious little (approximately \$5,000) of the money which we worked so hard to raise. Could we have done more? Of course we could, but even so there is no shame in the preliminary results.

Everything which the leaders of the NFB of Minnesota sought is now theirs, but equally important, we now have positive confirmation that the combined forces of the wealthiest and most powerful of the agencies for the blind in this country cannot, even though they may combine in a concerted attack upon us, match the strength possessed by our movement. It is true that we do not equal their combined financial resources, and using a highly-financed campaign is certainly one way to win a temporary victory, but over the long pull we cannot be stopped as a movement. We have the people and the spirit of our

cause to keep us moving. We must all work harder to find the money, and with these as our resources there will be plenty more victories ahead.

In looking back over this whole campaign, one is reminded of the words of James Russell Lowell:

Truth forever on the scaffold;
Wrong forever on the throne;
Yet, that scaffold sways the future,
And behind the dim unknown
Standeth God within the shadows,
Keeping watch above His own.

RECIPE OF THE MONTH

by MARJ SCHNEIDER

MARJ'S MINT DESSERT

(Note: Marj Schneider is an active member of the NFB of Minnesota. She also chairs the Committee on Women's Issues.)

1 pint cream, whipped
1 ½ cup colored
marshmallows
1 cup afterdinner mints

32 cream filled chocolate
cookies, crushed
1/3 cup margarine
¼ cup green creme de
minthe, optional

Mix the margarine with the crushed cookies. Place half of this mixture in a 9" by 9" pan, covering the bottom evenly. Blend the filling ingredients and pour over the cookies. Spread the remaining crushed cookies on top. Cover the pan and chill for two days. This allows the mints to soften.

MONITOR MINIATURES □ □ □ □ □

□ Here is a new twist on discrimination. Marsha Bangert, President of the National Federation of the Blind of Nebraska, writes as follows:

“I have talked with you about the problems we are having with the roller skating rinks in Lincoln. As you may remember, it began with Michael Hahn being refused admission to a rink because of his white cane. When he went to the county attorney

intending to pursue the matter under our White Cane Law, the county attorney at first agreed. Later, after talking with the roller rink's attorneys he got cold feet. The rink's attorneys maintained that it was not the blind person the rink's management discriminated against, but the white cane."

□ From Julie Deden:

"We are now in the process of organizing a 'human services division.'" This division will address different issues which concern blind people who are working in various helping professions. Some of the topics which will be discussed are discrimination in employment, job opportunities in different helping professions, and choosing a career in a human service.

This division would also serve as an advocacy group. Problems which people are having in their occupations will be discussed and solutions sought. Federationists would also have an opportunity to share experiences they have encountered in their involvement with human services professions.

If you are interested in becoming involved in this division or would like to be informed of its status, please send your name, phone number, address and occupation and something about yourself to Julie Deden, 7722 South Harrison Circle, Littleton, Colorado 80122."

□ From Gerald Franz:

You are welcome to participate in the taped Braille Bible Class by mail. Your questions and comments become part of each class tape. For information please write in Braille or ink to:

Braille Bible Class
College Hill Presbyterian Church
5742 Hamilton Avenue
Cincinnati, Ohio 45224

□ As a result of a successful pilot program carried out in 1978, MANAGEMENT WOMAN, INC. has established a new division, HEED, INC. (Handicapped Employment and Economic Development, Inc.). HEED operates as a separate retainer search division and specializes in the recruitment of disabled men and women into corporations. For further information contact:

Gerald Guarniero
Associate

HEED

A Division of Management Woman, Inc.
115 East 57th Street
New York, New York 10022
(212) 888-8109

□ From *The Blind New Yorker*:

As of July 1, 1979, the New York State Commission for the Blind and Visually Handicapped has a new Director. He is Martin O'Connell. We would like to congratulate Mr. O'Connell on his appointment and look forward to a fruitful relationship.

□ Linda Miller, of Albuquerque, New Mexico decided to follow the sound advice from our first political seminar. Results: She is now working half-days at the Bernalillo County Democratic headquarters, and was appointed chairman of the Membership Committee of the Bernalillo County Democratic Woman Association.

"There is much opportunity to show that we know who we are and that we're not only willing, but able to assume responsibility, as we continue the struggle to achieve first-class citizenship," says Linda.

THE BRAILLE MONITOR

1800 JOHNSON STREET
BALTIMORE, MARYLAND 21230

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